

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 16-cr-21-PP

vs.

SAMY M. HAMZEH,

Defendant.

NOTICE

Samy Hamzeh, by counsel, files this notice to the Court following up and clarifying the telephone call that each party participated on with chambers on Thursday. During that call, I indicated that the defense did not believe that there were additional, large filings that would be coming. I made that representation without the benefit of lead counsel, and it turned out to be inaccurate. This weekend the defense worked hard to go over and identify the statements from Hamzeh's post-arrest interview that had to be included under Rule 106. I apologize for giving the Court inaccurate information, and the breadth of the filing only became evident this weekend.

In addition, and in an effort of full disclosure, these additional issues could arise before or during trial that the defense anticipates may need to be briefed.

1. In an effort to comply with this Court's omnibus discovery order, the government turned over two letters. This has revealed a potential problem. The government's memorandum letters provide for additional instruction and admonishment of Mike during meetings on November 9 and 10, and the

defense has never been given a report for these dates. In response to our request for all rough notes, we were told that they had all been incorporated into the reports. *See* R.93:2. An oral request for those reports has also been made and the government is looking into it. The defense hopes this will not necessitate any action by the Court.

2. If Steve doesn't testify, the defense will file a motion under *Crawford* to keep out any testimonial statements he made.
3. The defense plans on filing a trial brief in support of its theories of impeachment concerning Mike.
4. The defense plans on filing a theory-of-defense instruction. A report turned over yesterday, makes it clear that Steve was targeting Hamzeh in August, 2015. That obviously matters for the predisposition analysis.

We will continue to address issues promptly as they arise. And I again apologize for not foreseeing the Rule 106 brief that the defense filed yesterday when I spoke with Chambers.

Dated at Milwaukee, Wisconsin this 15th day of October 2019.

Respectfully submitted,

/s/ Joseph A. Bugni
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